SUPREME COURT, U. S.

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Supreme Court of the United States

OCTOBER TERM, 1968

No. [redacted] 75

CAROLINA PIPELINE COMPANY, PETITIONER,

versus

YORK COUNTY NATURAL GAS AUTHORITY,
RESPONDENT

SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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Supreme Court of the United States

OCTOBER TERM, 1967

No. 1402

CAROLINA PIPELINE COMPANY, PETITIONER,

versus

YORK COUNTY NATURAL GAS AUTHORITY,
RESPONDENT

SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

Pursuant to Paragraph 5 of Rule 24, the Petitioner submits the following as a supplemental Brief in support of Petition for a Writ of Certiorari previously filed on May 6, 1968.

In addition to its argument that Title 28, U. S. C., § 2283 is a bar to the order of injunction appealed from, Petitioner has argued in both of the courts below and in its petition to this court that the Federal Courts below should have at the very least invoked the abstention doctrine and awaited the outcome of the previously pending State Court declaratory judgment proceeding.

On June 3, 1968, in Docket 1328, *Kaiser Steel Corp. v. W. S. Ranch Co.*, 36 L. W. 3463, this Court granted certiorari and summarily reversed the United States Court of Appeals for the Tenth Circuit and directed that the Federal Court action be stayed pursuant to the abstention doctrine until state law issues could be settled in a declaratory judgment action then pending in the state courts.

Precisely the same action would be appropriate here by this court pursuant either to the above cited statute or the important doctrine of comity previously expressed many times by this court, including *Thompson v. Magnolia Petroleum Co.*, 309 U. S. 478, *Louisiana Power and Light Co. v. Thibodaux*, 360 U. S. 25.

The circumstances recited commencing at Page 5 of the Petition constitute "special circumstances" justifying abstention as discussed in the concurring opinion in the *Kaiser Steel Corp. case.* Among other things, the Petitioner's declaratory judgment action in State Court involved the status of its certificate of public convenience and necessity obtained from the Public Service Commission of South Carolina and an interpretation of the Respondent's enabling act.

We submit that Docket No. 1328 shows dramatically this Court's concern for the unwarranted interference in pending state court litigation by the Federal Courts below and that the District Court should at the very least have stayed its own hand.

Respectfully submitted,

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June 19, 1968.